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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.28 OF 2007
IN
CIVIL APPLICATION NO.1151 OF 2006
IN
SECOND APPEAL NO.743 OF 2006

Umar Kasam Memon and others — Petitioners
versus
Nitin Karir, Pune Municipal Corporation, Pune and others — Respondents

Mr.V.A.Shetty for petitioners.
Mr.V.G.Mujumdar for respondents 1 to 3.

CORAM : A.S.OKA, J.
DATE : 28th March 2007

PC :

1. Heard advocate for the petitioners. The contempt alleged is of order dated 31st July 2006 passed by this Court. The relevant part of the said order reads thus :-

> "3. Till further orders the Respondents are restrained from carrying out any further construction on the suit property. However, this injunction will not prevent the Respondents from carrying out maintenance work and/or repairs to the drainage line which is already installed."

2. In paragraph no.12 of this petition it is

alleged that M/s.Golden Constructions started work in contravention of the order dated 31st July 2006 passed by this Court. There is no specific allegation against the respondents herein to the effect that they have carried out any work on the suit property in breach of the order passed by this Court.

3. Learned advocate appearing for the petitioners submits that the respondents herein should have prevented M/s.Golden Constructions from carrying on the work. Even assuming that the respondents have not prevented M/s.Golden Constructions from carrying out the work, it cannot be said that there is a deliberate or wilful breach of the order dated 31st August 2006 passed by this Court on the part of the respondents herein.

4. Hence, notice issued to the respondents is discharged. Contempt Petition is disposed of.

5. Nothing stated in this order will prevent the petitioners from taking out appropriate proceedings on the basis of order dated 31st July 2006 passed by this Court.

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(A.S.OKA, J.)